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Re: Comments of the California Association of Small and Multi-Jurisdictional Utilities on the Draft IE Guidance Letter

In accordance with the Draft Wildfire Safety Division 2021 Guidance on Engagement of Independent Evaluators Pursuant to Public Utilities Code § 8386.3 letter (“Draft IE Guidance Letter”) issued on February 22, 2021, Bear Valley Electric Service, Inc. (“BVES”), Liberty Utilities (CalPeco Electric) LLC (“Liberty”), and PacifiCorp, d.b.a. Pacific Power (“PacifiCorp”) (collectively, the California Association of Small and Multi-Jurisdictional Utilities (“CASMU”)), submit these comments on the Draft IE Guidance Letter. As described more fully below, the Draft IE Guidance Letter should be revised to provide additional clarity to clearly define the role and scope of work for Independent Evaluators (“IEs”). Additionally, the Wildfire Safety Division (“WSD”) should minimize and eliminate duplicative reporting and auditing requirements in order to streamline the review process for utility Wildfire Mitigation Plans (“WMPs”) and reduce costs for utility customers.

I. The Draft IE Guidance Letter Does Not Provide Sufficient Clarity to IEs or Utilities

CASMU is concerned that the Draft IE Guidance Letter does not adequately define the IE’s role or scope of work. For example, the Draft IE Guidance Letter simply provides that the

IE should “review and assess the electrical corporation’s compliance with its WMP.”¹ To complete this review and assessment, the Draft IE Guidance Letter provides:

The IE shall:

- Refer to WSD guidance documents including but not limited to: Remedial Compliance Plans (RCP), Quarterly Reports (QR), Quarterly Initiative Update (QIU), and Quarterly Advice Letters (QAL) upon auditing an electrical corporation’s compliance to its applicable WMP.
- Validate and describe quality assurance (QA)/quality control (QC) programs in place for WMP compliance.²

The Draft IE Guidance Letter further provides that “the IE shall determine whether the electrical corporation failed to fund any activities included in its WMP” based on “available financial audit reports and memorandum accounts, including but not limited to Wildfire Mitigation Plan (WMPMA), Fire Risk Mitigation (FRMMA), Fire Hazard Prevention (FHPMA), and Catastrophic Event (CEMA).”³ However, the Draft IE Guidance Letter also provides that “IEs are to view the above guidance(s) as minimum expectations *and are encouraged to expand evaluation criteria* within scope of statute, when possible.”⁴ This broad directive to expand the scope of the IE’s role in its review and assessment of utility compliance with WMPs is problematic as it creates uncertainty regarding the specific scope of work the IE will conduct.

This ambiguity is also present in additional guidance documents included with the Draft IE Guidance Letter. While the Draft IE Guidance Letter directs utilities to refer to the “Request For Qualifications (RFQ) 20NC0427 for IE’s scope of work”⁵ and attaches the RFQ to the letter, the RFQ itself includes many open-ended or undefined tasks. For example, the RFQ directs the IE to:

¹ Draft IE Guidance Letter, p. 2.

² Draft IE Guidance Letter, p. 2.

³ Draft IE Guidance Letter, p. 2.

⁴ Draft IE Guidance Letter, p. 2, emphasis added.

⁵ Draft IE Guidance Letter, p. 3.

- “Attend and participate in WSD team meetings as requested by the WSD Program Manager or designee.”⁶ However, it is unclear when these meetings will be held or what they will address.
- “[D]evelop all standard [Program Management Office] PMO processes and procedures, including ... other project support functions as required by the WSD Program Manager or designee.”⁷ These undeveloped processes, including yet to be defined “other project support functions,” are ambiguous and lack clarity.
- “Develop procedures required to establish the independent evaluator’s audit and field inspection program.”⁸ Given that such procedures are not yet developed, let alone defined, it is unclear how the audit and field inspection program will function.
- “Plan, organize, review, monitor, train and provide general direction to independent evaluator staff.”⁹ Again, it is unclear what direction will be provided to IE staff and how they will conduct their review and assessment of utility WMPs.
- “Assist the WSD in development and/or improvement of utility-specific methods and tools to perform risk assessment of utility infrastructure.”¹⁰ These “utility-specific methods and tools” are currently undefined and ambiguous.

These undeveloped, undefined, open-ended, and ambiguous descriptions and requirements for the IE’s scope of work are problematic for both the IE and utilities. Failing to clearly define the IE’s scope of work makes it difficult for the IE to conduct its work. Furthermore, absent a clearly defined scope, utilities will have difficulty contracting with IEs.

Given the uncertainty regarding the defined scope of work for IEs, IEs are likely to interpret their roles differently and apply different standards and/or criteria when reviewing and assessing utility WMPs. This is not only problematic from a review and assessment standpoint, but such inconsistent application of IE roles creates difficulty for utilities in organizing and contracting with IEs. Indeed, until the Annual Report of Compliance (“ARC”) is completed by the IE, utilities may not know the full role and scope of work performed by the IE. This makes it

⁶ Draft IE Guidance Letter, Attachment 2, p. 5.

⁷ Draft IE Guidance Letter, Attachment 2, p. 5.

⁸ Draft IE Guidance Letter, Attachment 2, p. 5.

⁹ Draft IE Guidance Letter, Attachment 2, p. 6.

¹⁰ Draft IE Guidance Letter, Attachment 2, p. 7.

difficult to compare and evaluate IEs and IE bids before engaging an IE, particularly as the details of a particular bid or information regarding a bidder's expertise may or may not be relevant to the ultimate scope of work provided by the IE. These are all relevant details that should be clarified and clearly defined before utilities are required to contract with IEs.

These problems are further exacerbated given the limited pool of IEs and the short timeline the IEs have to complete their ARC (due July 1, 2021). There are only six approved IEs so the utilities are limited with respect to which IE they can utilize. The ambiguous scope of the IE role and work as well as the short timeline for the IEs to begin work to complete the ARC by the deadline will make it difficult for utilities to properly evaluate and select an IE.

For these reasons, while CASMU recognizes the importance of and statutory provisions requiring the use of IEs to assess utility compliance with their respective WMPs, CASMU urges the WSD to provide additional clarity and guidance to clearly define the IE's role and scope of work. At a minimum, the Draft IE Guidance Letter should acknowledge the current challenges associated with an ambiguous and indeterminate IE scope, the organizational process of contracting with a small set of evaluators bidding to do an undefined scope of work and who may not fully comprehend the scope of the work they are bidding on, and the likelihood that the scope of work performed by IEs will be interpreted and applied inconsistently.

II. The WSD Should Streamline and Minimize Duplicative Reporting and Audit Requirements

While CASMU recognizes that Public Utilities Code Section 8386.3 requires utilities to engage an IE to review and assess utility WMPs, it is important to highlight that such a requirement places an additional burden on utilities, and particularly smaller utilities like the CASMU members and their more limited customer bases. The CASMU utilities are significantly smaller than California's three largest electric utilities, Pacific Gas and Electric

Company, Southern California Edison Company, and San Diego Gas & Electric Company (collectively, the “Large IOUs”). Each CASMU member has less than 50,000 customers and faces disproportionate administrative burdens in implementing and complying with new requirements.¹¹

To the extent that review, audit, and verification processes and requirements can be streamlined and simplified, CASMU fully supports such efforts. CASMU believes that additional streamlining and simplification can be accomplished given the duplicative nature of existing review, audit, and verification processes. Specifically, while the ARC provided by the IE will address a utility’s compliance with its respective WMP, there are already existing audits, reports, and review processes in place designed to provide similar information. For example, Quarterly Initiative Updates (“QIUs”), Quarterly Advice Letters (“QAL”),¹² Quarterly Data Reports (“QDR”), the ARC, as well as the additional auditing of utility WMPs by the WSD are all designed, at least in part, to address a utility’s compliance with its respective WMP. Therefore, the WSD should aim to streamline, minimize, or eliminate duplicative reporting and auditing requirements to minimize costs on utilities and their customers.

III. Conclusion

CASMU appreciates this opportunity to provide comments on the Draft IE Guidance Letter and looks forward to working with the WSD and stakeholders to further refine and clarify

¹¹ Indeed, utility planning efforts and compliance with WMP and WSD requirements are conducted and handled by significantly smaller staff for the CASMU members than at the Large IOUs. These differences have traditionally been recognized by the California Public Utilities Commission, which has routinely determined that “the small size of [CASMU members] and the nature of their operations” make it inappropriate and burdensome for the Commission to impose certain requirements on CASMU members or require that the Commission allow CASMU members to take a more limited approach than that required for the Large IOUs. (*See, e.g.,* D.09-12-046, at 2 (exempting CASMU members from certain smart grid-related requirements).)

¹² The QAL is the Tier 1 Advice Letter submitted pursuant to Pub. Util. Code § 8389(e)(7).

IE requirements and scope of work. As outlined above, the WSD should provide additional details and clarify the Draft IE Guidance Letter to clearly define the role and scope of work for IEs. Additionally, the WSD should work to eliminate duplicative reporting and auditing requirements and work to streamline WMP reporting and auditing practices.

Respectfully Submitted,



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